

State of California
AIR RESOURCES BOARD

Executive Order R-09-019

Relating to the Regulation for In-Use Off-Road Diesel-Fueled Fleets

WHEREAS, the Air Resources Board (ARB or Board) adopted the In-Use Off-Road Diesel-Fueled Fleet Regulation on April 4, 2008, which became operative on June 15, 2008, and the Board subsequently approved amendments to the regulation on December 12, 2008, and January 22, 2009;

WHEREAS, the legislature adopted and the Governor signed on February 20, 2009, Assembly Bill 8 2X (AB 8 2X), legislation intended to provide economic relief and to preserve jobs in the construction industry;

WHEREAS, on July 23, 2009, the Board conducted a public hearing to consider proposed amendments to sections 2449 through 2449.2, title 13, California Code of Regulations, including those directed by AB 8 2X as well as other amendments not directed by AB 8 2X but intended to spur early actions by fleets to reduce emissions and to provide clarification to the regulation;

WHEREAS, the Board approved the proposed amendments of sections 2449 through 2449.2, title 13, California Code of Regulations, on July 23, 2009 in Resolution 09-50;

WHEREAS, the California Legislature in AB 8 2X, Health and Safety Code section 43018.2(b), exempted the AB 8 2X amendments from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code);

WHEREAS, the Executive Officer has deemed it necessary to bifurcate the AB 8 2X-directed amendments to sections 2449 through 2449.2, title 13, California Code of Regulations, from the other amendments approved on July 23, 2009, to expedite the adoption of the AB 8 2X amendments, so that they become operative as soon as possible and provide as much certainty as possible to affected fleets; and

WHEREAS, because the other amendments approved on July 23, 2009, are subject to the Administrative Procedure Act and the requirements thereof, a separate Executive Order adopting those amendments will be issued after the Board directed modifications to those amendments are publicly noticed for at least 15 days.

AMENDMENTS TO THE REGULATION FOR IN-USE OFF-ROAD DIESEL-FUELED
FLEETS – R-09-019

NOW, THEREFORE, IT IS ORDERED, that the AB 8 2X-directed amendments to sections 2449 through 2449.2, title 13, California Code of Regulations, are adopted as set forth in Attachment I to hereto.

Executed this 3rd day of December, 2009, at Sacramento, California.

James N. Goldstene
Executive Officer

Attachment